

CANADA EUROPE ROUND TABLE FOR BUSINESS



**Third Annual CEO Round Table
"Investment & Information: Managing Transatlantic Business Expansion"**

Toronto, 20 & 21 November 2003



Contents

1. Overview.....	4
2. CEO Round Table Report.....	6
• Competition Policy and Mergers & Acquisitions.....	6
• Capital Markets.....	7
• The Interface of Mergers & Acquisitions with Capital Markets.....	8
• Corporate Social Responsibility.....	8
• Mutual Recognition.....	9
3. Conclusions.....	10
4. CEO Round Table Programme.....	11



The Canada Europe Round Table for Business - CERT is a permanent association for dialogue on major trade and investment matters among senior business leaders of both Canada and Europe, as well as between business leaders and governments.

CERT membership includes: Alcan, Interbrew, Bombardier, GPC International, Gide, Loyrette & Nouel, Tractebel, TSX Group, Power Corporation, Novartis International, Golder Associates, European Aeronautic Defence & Space Company (EADS), MDS, Nova Chemicals, CGI, Blake, Cassels & Graydon LLP, SNC Lavalin, Canadian Manufacturers & Exporters, Forest Products of Canada (FPAC), Spirits Canada, Canadian Chamber of Commerce, HEC Montreal, EU Chamber of Commerce in Toronto and the American European Community Association.



Overview

The Canada Europe Round Table for Business - CERT - held its third annual CEO Round Table in Toronto on 21 November on the theme *“Investment & Information: Managing Transatlantic Business Expansion”*. Discussions highlighted that the fact that due to the evolving nature of the Canada-EU relationship, the incorporation of principles that ease the flow of investment between the two territories is essential to increasing bilateral investment, which has grown rapidly in the past decade.

In his morning keynote address, John Brock, President & CEO of Interbrew outlined, *“We (Canada and the EU) have an opportunity to lead the evolution of capital markets towards integration and greater access. And, as has happened in many industries including brewing, if we are not part of that change, we will be left out”*.

Other speakers at the event included *Bill Graham*, Canadian Minister of Foreign Affairs, *Eric Hayes*, EU Ambassador to Canada, *Frank Dottori*, President & CEO of Tembec, *Greg Melchin*, Alberta Minister of Revenue and *Brian Sturgell*, Executive Vice President of Alcan.

“Governments will, if all goes well, establish the principle that one of the routes to integrating European and Canadian capital markets lies in our governments accepting the principle of mutual recognition” outlined Barbara Stymiest, CEO of the TSX Group, the parent of the Toronto Stock Exchange, the world’s seventh largest by market capitalization.

She added, *“If the principle of mutual recognition can be embedded in a trans-Atlantic accord as a result of the Canada-Europe trade talks, it will provide a framework for creating a more integrated and lower cost trans-Atlantic securities market between Canada and Europe”*.

Similarly, Calvin S. Goldman, Blake, Cassels & Graydon LLP, stressed the importance of convergence in competition policies, especially with respect to merger review, to facilitate bilateral investment provided that confidential business information is protected.

Ms. Stymiest also noted the importance of Canada simplifying its regulatory framework to make it possible to negotiate new arrangements with European and other regulatory agencies, including mutual recognition agreements. The existing system of 13 territorial and provincial regulators presents an image of unnecessary duplication and complexity, she said. Foreign regulators have made clear their reluctance to negotiate with multiple Canadian regulators.

Minister Melchin argued that provincial regulators have been working to reduce the complexity through more harmonized securities laws and acknowledged that more work needed to be done on simplifying relations between Canada, Europe and other capital markets.

The Hon. James Peterson argued that a single regulator is needed to improve Canada’s international competitiveness and make Canada a more attractive destination for foreign capital. (Mr. Peterson was subsequently named Minister of International Trade in the Canadian government. On December 16, provincial regulators published for consultation a draft Uniform Securities Act that they proposed be adopted by all provinces. On December 17 a federal Wise Persons’ Committee recommended that Canada replace its existing regulatory framework with a single national regulatory agency.)



Other key areas of discussion included the need for the prevention of the use of non-tariff barriers, increasing R&D cooperation and the use of mutual recognition as a tool for developing regulatory compatibility between Canada and the EU were highlighted by the speakers and over 125 delegates gathered for the two days.

CERT is a permanent association for dialogue on major trade and investment matters among senior business leaders, Canadian and European, and among business leaders and governments. Its membership comprises companies and business associations in the European Union and Canada. CERT has been actively involved in the development of the Canada-EU Trade and Investment Enhancement Agreement (TIEA), which is aimed at reducing transatlantic regulatory obstacles.



CEO Round Table Report

As Canada's new Prime Minister Paul Martin said in the political manifesto made public last week, "the global order is changing. In 20 to 30 years, the United States will not likely stand alone as it does today in the order of nations. We must commit to deepening and widening the intellectual, legal and institutional structure of a multilateral order."

However, we are often still entangled in the legacy of old approaches to domestic regulation and international trade negotiating. We have to build those new global relationships between markets that will pass the benefits to investors and entrepreneurs in the form of lower cost global trading and more accessible and more liquid global markets.

1. Competition Policy and Mergers & Acquisitions

There is a distinct need to allow for the consolidation of companies in a range of sectors, such as forestry and brewing, to allow for companies large enough to compete effectively on the international stage. The economies of scale and financial stability that consolidation offers are requisites. However, speakers also argued that with consolidation came the continuing need to tailor products to local needs and preferences.

Today's companies often penetrate foreign markets by acquiring operating businesses in the target countries. Few markets are large enough to provide both the opportunities for self-contained growth and the size required for innovation and efficiency. For a company to grow, there has to be foreign expansion, which almost always involves acquisitions.

A period of negotiation in the mergers and acquisitions process allows all parties, both companies and the national market regulators, to reach an appropriate solution to issues that are mutually beneficial for all stakeholders – the company, the consumer and the local economy in providing opportunities in terms of employment. Regulatory variance, uncertainty and inconsistent application increase the cost of a merger and must be reduced or eliminated. Affected governments need to work together to facilitate the review of mergers while minimising the burdens on the merging companies.

The trading relationship between Canada and the EU, and even within the EU itself, is still undergoing an evolutionary process, from a many country, many regulation, many process state; to a one trading block, one regulation regime, one process ideal. The road to harmonization and consistency should start with the recognition that global initiatives such as those prompted by the International Competition Network, are both a reality and a valuable opportunity. As much regulatory consistency as possible, both from procedural and substantive points of view is more important than ever.

In addition to procedural differences, the regulatory process is hampered by a lack of consensus on how to define markets and competition issues within markets. Value potential is the decisive factor when it comes to growth. Growth strategy is rarely focused on any particular geographic region. Ultimately companies seek value – not regional presence.



2. Capital Markets

One of the routes to integrating European and Canadian capital markets lies in our governments accepting that the principle of mutual recognition should be established. This principle, as applied to capital markets, accepts that while we operate in regulatory environments that may differ in detail, our regulators share common purposes.

In EU draft legislation to be revealed this month that will create the basis for the free movement in services throughout the EU, the goal is to propose mutual recognition of the documents that allow companies to provide services among EU states. Mutual recognition, of course, is also the basis for the passport system that is one of the instruments for creating a single European market in financial services. What is in play now is a negotiation to extend mutual recognition from within Europe to Europe's relations with Canada.

If the principle of mutual recognition can be embedded in the Canada EU Trade and Investment Enhancement Agreement (TIEA), it will provide two things.

1. Canadian and European exchanges with a framework within which they can work with regulators and with each other on the details of mutual recognition in efforts to create, within that framework, a more integrated and lower cost trans-Atlantic securities market between Canada and Europe.
2. It will also provide an example for trade negotiators and regulators in other markets of an approach based on accommodating differences, rather than trying to achieve the far more difficult objective of eliminating those differences. The insistence on achieving legalistic certainty in a dynamic and highly complex environment is one of the most important impediments to progress in creating a more open global market for financial services. Trading off some of that legalistic certainty for a greater concentration on shared purposes provides the possibility of giving new momentum toward more open global markets.

Markets can work more efficiently and more openly by accepting that no one market's legislators and regulators necessarily have all the right answers. At the same time, mutual recognition doesn't preclude markets operating on the basis of the same principles from converging toward the same place in terms of the details of enforcement. Under a system based on mutual recognition of different approaches, convergence can progress market by market.

Most important, mutual recognition can serve to moderate the disruptive effect of changes in major markets – of the kind we all experienced in the aftermath of the Sarbanes-Oxley law. Canada and Europe should move to recognize each other's stock markets now with a view to demonstrating the cost savings and economic advantages of transatlantic integration to the United States.

Canada's provincial and territorial regulators are to make public their proposal for the Uniform Securities Law for Canada. The idea is that every province and territory will adopt the law, along with a companion administrative law. As the proposals are understood at this point, they still envisage 13 securities regulators instead of one, albeit 13 better co-ordinated regulators. In the context of how Canada is seen from abroad, however, it is not clear how it will be able to transform mutual recognition into a working principle on an international basis given what has been proposed so far.



While they can, as individual regulators, negotiate arrangements with their counterparts abroad, there are already signs that, while the U.K. and the EU may be supportive of mutual recognition, they are likely to prefer to deal with a single Canadian regulator on mutual recognition and other issues – whether that single regulator is provincial, a mix of federal and provincial, or federal - than negotiate with 13 regulators.

In the meantime, foreign entities are not using Canadian financial markets to raise capital because of perceived complexities, uncertainties and costs associated with multiple provincial and territorial jurisdictions.

3. The Interface of Mergers & Acquisitions with Capital Markets

Global access to capital is clearly necessary for global expansion. The listing of shares on foreign exchanges can lead to a migration over time of the shareholder base, to the point where a majority of shares can be outside of the company's country of origin. This means that companies can no longer be insulated from the consequences of under-performance by traditional national structural considerations and protectionist policies. Companies are now exposed to the relentless performance pressures of global capital markets.

While governments may theoretically retain the authority to step in at any time and veto M&A deals, for instance, on the basis that the company may be a vital contractor, in reality, investors are likely to react very negatively to any heavy-handed government intervention.

The consequences of such actions can be severe, in terms of eroding confidence in national capital markets. In today's shrinking world, governments ignore global capital markets at their peril. The global economy is real, the capital markets reflect that reality, and it is clearly a factor in the economic realities in all areas of the globe.

European M&A activities remains well behind North America in terms of deal structure, process and maturity from a regulatory structure perspective. In turn, there should be a focus on how the regulatory and approvals process might be further aligned and streamlined between Canada and the EU to better reflect the realities of today's global business and capital market realities.

4. Corporate Social Responsibility - CSR¹

A major trend is the increasing focus on the social responsibility of business. Where once it was generally believed that a corporation was "an amoral instrument of commerce", people today perceive companies as moral entities, with responsibilities to their employees, investors and society in general.

The corporation has become society's dominant non-governmental institution and power implies responsibility. People are going to continue holding companies to very high standards. Laws should provide incentives to encourage a stronger commitment to self-governance and to ethical principles. Strong and consistent corporate values are the keys to engendering a robust culture of morality and ethical responsibility in any organization. A principles-based approach to corporate governance, adopted by Canada and Europe, makes sense.

¹ While CSR was not on the original CEO Round Table programme, Carol Stephenson of the Ivey School of Business discussed the topic in her panel presentation.



While CERT fully subscribes to laws requiring full transparency and rigour in financial accounting and reporting, intrusive regulation on a whole range of Corporate Social Responsibility (CSR) issues should be avoided. We encourage governments to exchange views with industry, as industry and governments work to develop their independent CSR/Sustainable Development processes. CERT members participate on a number of government/industry collaborative working groups, addressing CSR issues.

However, it would not be constructive for governments to legislate CSR practices. This view, we believe, is representative of the overwhelming consensus of Canadian and European business. Regulation, rather than being helpful, likely would stifle further innovation, setting a ceiling, as well as a floor, for the corporate sector. We therefore recommend that while we appreciate the efforts of government working with industry better to understand CSR issues and to develop appropriate tools, regulation, at least at this stage, would be counterproductive.

5. Mutual Recognition

Central to the outcomes of CERT's fourth annual CEO Round Table is the core principle that the use of Mutual Recognition is paramount to increasing the levels of Canada EU trade and investment activity. In this context, Mutual Recognition, *based on equivalency*, is a means of recognising regulatory approaches that may seek the same outcomes and provide the same safeguards, but that may differ in process between Canada and the EU.



Conclusions

The key outcomes from CERT's third annual CEO Round Table address the investment element of the Canada-EU relationship. To further promote and strengthen investment within the transatlantic business community, CERT urges Canada and the European Union to negotiate a trade and investment enhancement agreement that incorporates the principles outlined in this report. In turn, such an agreement will lead to a Canada-EU regulatory framework that will:

- Avoid duplication;
- Streamline processes;
- Reduce and eliminate obstructions to business transactions;
- Facilitate investment, and;
- Prevent regulatory disputes.

CERT would welcome the opportunity to discuss the comments contained in this report with the Government of Canada and the European Commission in any further consultation process.

In addition to full copies of the CEO Round Table speeches can be found on the CERT website at www.canada-europe.org. CERT's fourth annual CEO Round Table will take place in Europe in 2004.

For a more detailed overview of CERT's positions on the Canada-EU relationship as it applies to trade as well as investment, please refer to our 2003 working group papers on Regulatory Cooperation & Mutual Recognition and Competition Policy. The CERT working group papers can be found on our website at:

<http://www.canada-europe.org/en/AboutUs/operatingStructure.htm>



CEO Round Table Programme

20 November – CERT Members' Dinner - King Edward Hotel

- 20:00 Members' dinner. Keynote address: "*Transatlantic Growth in the Global Economy*"
- ❑ **Brian Sturgell**, Executive Vice President, Alcan.
 - ❑ Introduction **Hon. Roy MacLaren**, Honourary Chairman, CERT

21 November – Third Annual CEO Round Table Conference

- Moderator: **Dr. Jack M. Mintz**, President & CEO, CD Howe Institute
- 9:00-9:15 Introduction
- ❑ **Barbara Stymiest**, Chief Executive Officer, TSX Group
- 9:15-9:45 Keynote address: "*Coming Together: Keeping a local focus in a consolidating industry*"
- ❑ **John F. Brock**, President & CEO, Interbrew
- 9:45-10:45 Panel I: Opportunities to eliminate barriers and expand trade and investment
- ❑ **Frank A. Dottori**, President & CEO, Tembec Inc.
 - ❑ **Calvin Goldman, QC**, Head of Competition & Trade Group, Blake, Cassels & Graydon LLP
 - ❑ **Marc LePage**, Executive Vice President, Genome Canada
 - ❑ **H.E. Eric Hayes**, EU Ambassador to Canada
- 10.45-11.00 Break
- 11:00-12:00 Panel II: Transatlantic integration of capital markets and the impacts on investment
- ❑ **Barbara Stymiest**, Chief Executive Officer, TSX Group
 - ❑ **Carol Stephenson**, Dean, Ivey Business School, University of Western Ontario
 - ❑ **Hon. Greg Melchin**, Minister of Revenue, Province of Alberta
- 12:00-12:15 Walk to The National Club for Lunch
- 12:15-13:00 Reception
- 13:00-15:00 Lunch at The National Club. Keynote address:
- ❑ **Hon. Bill Graham**, Canadian Minister for Foreign Affairs
- Lunch sponsored by:
- Forest Products
Association of Canada



Association des produits
forestiers du Canada
- 15:00 Close